

**Thomas Jefferson to George Washington, December 11, 1791, with Observations on Major L'Enfant's Letter dated December 7, 1791; Partial Transcription Available, from Thomas Jefferson and the National Capital. Edited by Saul K. Padover.**

**Jefferson's Opinion on L'enfant Letter of December 7** *Opinion relative to the demolition of Mr. Carroll's house by Major L'Enfant, in laying out the Federal City.*

*December 11, 1791.*

Observations on Major L'Enfant's letter of December 7th, 1791, 16 to the President, justifying his demolition of the house of Mr. Carroll, of Duddington:

16 Published in Kite, L'ENFANT AND WASHINGTON, pp. 89–91.

He says that “Mr. Carroll erected his house partly on a main street, and altogether on ground to which the public had a more immediate title than himself could claim.” When blaming Mr. Carroll, then, he considers this as a street; but when justifying himself, he considers it not yet as a street, for to account for his not having pointed out to Carroll a situation where he might build, he says, “The President had not yet sanctioned the plan for the distribution of the city, not determined if he would approve the situation of the several areas proposed to him in that plan for public use, and that I would have been highly to be blamed to have anticipated his opinion thereon.” This latter exculpation is solid; the first is without foundation. The plan of the city has not yet been definitely determined by the President. Sales to individuals, or partition decide the plan as far as these sales or partitions go. A deed with the whole plan annexed, executed by the President, and

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recorded, will ultimately fix it. But till a sale, or partition, or deed, it is open to alteration. Consequently, there is as yet no such thing as a street, except adjacent to the lots actually sold or divided; the erection of a house in any part of the ground cannot as yet be a nuisance in law. Mr. Carroll is tenant in common of the soil with

the public, and the erection of a house by a tenant in common on the common property, is no nuisance. Mr. Carroll has acted imprudently, intemperately, foolishly; but he has not acted illegally. There must be an establishment of the streets, before his house can become a nuisance in the eye of the law. Therefore, till that establishment, neither Major L'Enfant, nor the commissioners, would have had a right to demolish his house, without his consent.

The Major says he had as much right to pull down a house, as to cut down a tree.

This is true, if he has received no authority to do either, but still there will be this difference: To cut down a tree or to demolish a house in the soil of another, is a trespass; but the cutting a tree, in this country, is so slight a trespass, that a man would be thought litigious who should prosecute it; if he prosecuted civilly, a jury would give small damages; if criminally, the judge would not inflict imprisonment, nor impose but a small fine. But the demolition of a house is so gross a trespass, that any man would prosecute it; if civilly, a jury would give great damages; if criminally, the judge would punish heavily by fine and imprisonment. In the present case, if Carroll was to bring a civil action, the jury would probably punish his folly by small damages; but if he were to prosecute criminally, the judge would as probably vindicate the insult on the laws, and the breach of the peace, by

heavy fines and imprisonment. So that if Major L'Enfant is right in saying he had as much authority to pull down a house as to cut down a tree, still he would feel a difference in the punishment of the law.

But is he right in saying he had as much authority to pull down a house as to cut down a tree? I do not know what have been the authorities given him expressly or by *implication*,

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but I can very readily conceive that the authorities which he has received, whether from the President or from the commissioners, whether verbal or written, may have gone to the demolition of trees, and not houses. I am sure he has received no authority, either from the President or commissioners, either expressly or by implication, to pull down houses. An order to him to mark on the ground the lines of the streets and lots, might imply an order to remove trees or *small* obstructions, *where they insuperably prevented his operations*; but a person must know little of geometry who could not, in an open field, designate streets and lots, even where a line passed through a house, without pulling the house down.

In truth, the blame on Major L'Enfant, is for having pulled down the house, of his own authority, and when he had reason to believe he was in opposition to the sentiments of the President; and his fault is aggravated by its having been

done to gratify private resentment against Mr. Carroll, and most probably not because it was necessary; and the style in which he writes the justification of his act, shows that a continuation of the same resentment renders him still unable to acquiesce under the authority from which he has been reprov'd.

He desires a line of demarcation between his office, and that of the commissioners.

What should be this line? and who is to draw it? If we consider the matter under the *act of Congress* only, the President has authority only to name the commissioners, and to approve or disapprove certain proceedings of theirs. They have the whole executive power, and stand between the President and the subordinate agents. In this view, they may employ or dismiss, order and countermand, take on themselves such parts of the execution as they please, and assign other parts to subordinate agents. Consequently, under the *act of Congress*, their will is the line of demarcation between subordinate agents, while no such line can exist between themselves and their agents. Under the deed from the proprietors to the President, his powers are much more ample. I do not accurately

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recollect the tenor of the deed; but I am pretty sure it was such as to put much more ample power

into the hands of the President, and to commit to him the whole execution of whatever is to be done under the deed; and this goes particularly to the laying out the town: so that as to this, the President is certainly authorized to draw the line of demarcation between L'Enfant and the commissioners. But I believe there is no necessity for it, as far as I have been able to judge, from conversations and consultations with the commissioners. I think they are disposed to follow implicitly the will of the President, whenever they can find it out; but L'Enfant's letters do not breathe the same moderation or acquiescence; and I think it would be much safer to say to him, "the orders of the commissioners are your line of demarcation," than by attempting to define his powers, to give him a line where he may meet with the commissioners foot to foot, and chicanery and raise opposition to their orders whenever he thinks they pass his line. I confess, that on a view of L'Enfant's proceedings and letters latterly, I am thoroughly persuaded that, to render him useful, his temper must be subdued; and that the only means of preventing his giving constant trouble to the President, is to submit him to the unlimited control of the commissioners; we know the discretion and forbearance with which they will exercise it.

[Pp. 564–7, WRITINGS OF JEFFERSON, Washington, VII.]